



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2014-0221; FRL-9951-54-Region 6]

Approval and Promulgation of Implementation Plans; Oklahoma; Revisions to Major New Source Review Permitting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving severable portions of revisions to the Oklahoma New Source Review (NSR) State Implementation Plan (SIP) submitted by the State of Oklahoma on June 24, 2010; July 16, 2010; December 27, 2010; February 6, 2012; and January 18, 2013. These revisions update the Prevention of Significant Deterioration (PSD) and Nonattainment NSR (NNSR) permit programs to be consistent with federal permitting requirements and make general updates to the Oklahoma SIP to support major NSR permitting. We are taking this final action under section 110, parts C and D of the Clean Air Act (CAA).

DATES: This rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R06-OAR-2014-0221. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, *e.g.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be

publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733.

FOR FURTHER INFORMATION CONTACT: Ms. Adina Wiley, (214) 665-2115, wiley.adina@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document “we,” “us,” or “our” means the EPA.

I. Background

The background for this action is discussed in detail in our June 30, 2016 proposal at 81 FR 42587. In that document we proposed to approve revisions to the General Provisions in the Oklahoma SIP submitted on July 16, 2010 and December 27, 2010. These revisions included updates to the definitions and units, abbreviations, and acronyms used throughout the Oklahoma SIP; provisions establishing the ability to incorporate by reference federal requirements; revisions to the PSD increments regulated under the Oklahoma SIP; and updates to the Emission Inventory provisions. We also proposed to approve revisions to the Oklahoma PSD and NNSR Programs that had been submitted on June 24, 2010; July 16, 2010; February 6, 2012; and January 18, 2013. These proposed revisions had been submitted by the State of Oklahoma to address amendments to the federal PSD and NNSR regulations made in the following final rules:

- NSR Reform Rule (67 FR 800186, December 31, 2002) and (68 FR 63021, November 7, 2003);
- Implementation of the 8-hour Ozone (O₃) NAAQS-Phase 2; Final Rule to Implement Certain Aspects of the 1990 Amendments Relating to NSR and PSD as They Apply to Carbon Monoxide (CO), PM and O₃ NAAQS (70 FR 71612, November 29, 2005);

- PSD and NNSR: Reasonable Possibility in Recordkeeping (72 FR 72607, December 21, 2007);
- NSR PM_{2.5} Implementation Rule (73 FR 28321, May 16, 2008);
- PSD for PM_{2.5}—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC) (75 FR 64864, October 20, 2010);
- GHG Tailoring Rule (75 FR 31514, June 3, 2010) (specific to PSD permitting only); and
- PSD and NNSR: Reconsideration of Inclusion of Fugitive Rule (76 FR 17548, March 30, 2011).

The EPA provided a 30-day comment period on our proposed action. We did not receive any comments on our proposed action. As such, we are finalizing as proposed.

II. Final Action

We are approving the following severable revisions to the Oklahoma SIP submitted on June 24, 2010; July 16, 2010; December 27, 2010; February 6, 2012; and January 18, 2013. The revisions were adopted and submitted in accordance with the requirements of the CAA and the EPA's regulations regarding SIP development at 40 CFR part 51. Additionally, we have determined that the submitted revisions to the Oklahoma PSD and NNSR programs are consistent with our major source permitting regulations at 40 CFR 51.160 – 51.166 and the associated policy and guidance. Therefore, under section 110 and parts C and D of the Act, the EPA approves into the Oklahoma SIP the following revisions:

Table 1: Revisions to the Oklahoma SIP			
Section	Title	Effective Date	Submittal Date
OAC 252:100-1-1	General Provisions, Purpose	June 12, 2003	July 16, 2010
OAC 252:100-1-2	General Provisions, Statutory definitions	June 12, 2003	July 16, 2010
OAC 252: 100 – 1 – 3	General Provisions, Definitions	June 12, 2003	July 16, 2010
		July 1, 2008	July 16, 2010
		July 1, 2009	July 16, 2010
		June 15, 2006	July 16, 2010

Table 1: Revisions to the Oklahoma SIP			
Section	Title	Effective Date	Submittal Date
		July 1, 2011	February 6, 2012
		July 1, 2012	January 18, 2013
OAC 252: 100 – 1 – 4	General Provisions, Units, Abbreviations and acronyms	June 12, 2003	July 16, 2010
		July 1, 2009	July 16, 2010
		July 1, 2011	February 6, 2012
OAC 252:100-2-1	Incorporation by Reference (IBR) Purpose	July 1, 2012	January 18, 2013
OAC 252:100-2-3	IBR, Incorporation by Reference	July 1, 2012	January 18, 2013
OAC 252: 100 – 3 – 4	Air Quality Standards and Increments, Significant Deterioration Increments	June 15, 2005	December 27, 2010
		July 1, 2011	February 6, 2012
OAC 252:100, Appendix P	Regulated Air Pollutants	June 15, 2007	July 16, 2010
OAC 252:100, Appendix Q	Incorporation by Reference	July 1, 2009	July 16, 2010
		July 1, 2012	January 18, 2013
OAC 252:100-5-1.1	Definitions	June 15, 2007	July 16, 2010
OAC 252:100-5-2.1	Emission Inventory	June 11, 2004	July 16, 2010
		June 15, 2007	July 16, 2010
OAC 252: 100 – 8 – 1.1	General Provisions, Definitions	June 15, 2006	July 16, 2010
OAC 252:100 – 8 – 30	Prevention of Significant Deterioration (PSD) Requirements for Attainment Areas, Applicability	June 1, 2009	June 24, 2010
		June 15, 2006	July 16, 2010
OAC 252:100 – 8 – 31	PSD, Definitions	June 1, 2009	June 24, 2010
		June 15, 2006	July 16, 2010
		July 1, 2011	February 6, 2012
		July 1, 2012	January 18, 2013
OAC 252: 100 – 8 – 32	PSD, Source Applicability Determination	REVOKED June 15, 2006	REVOKED July 16, 2010
OAC 252:100 – 8 – 32.1	PSD Ambient Air Increments and Ceilings	June 15, 2006	July 16, 2010
OAC 252: 100 – 8 – 32.2	PSD Exclusion from Increment Consumption	June 15, 2006	July 16, 2010
OAC 252: 100 – 8 – 32.3	PSD Stack Heights	June 15, 2006	July 16, 2010
OAC 252: 100 – 8 – 33	PSD, Exemptions	June 1, 2009	June 24, 2010
		June 15, 2006	July 16, 2010
		July 1, 2011	February 6, 2012
		July 1, 2012	January 18, 2013
OAC 252: 100 – 8 – 34	PSD, Control Technology Review	June 15, 2006	July 16, 2010
OAC 252: 100 – 8 – 35	PSD Air Quality Impact Evaluation	June 15, 2006	July 16, 2010
		July 1, 2011	February 6, 2012
OAC 252: 100 – 8 – 35.1	PSD Source Information	June 15, 2006	July 16, 2010
OAC 252: 100 – 8 – 35.2	PSD Additional Impact Analyses	June 15, 2006	July 16, 2010
OAC 252: 100 – 8 – 36	PSD Source Impacting Class I Areas	June 15, 2006	July 16, 2010
OAC 252: 100 – 8 – 36.2	PSD Source Obligation	June 15, 2006	July 16, 2010
OAC 252: 100 – 8 – 37	PSD, Innovative Control Technology	June 1, 2009	June 24, 2010
		June 15, 2006	July 16, 2010

Table 1: Revisions to the Oklahoma SIP			
Section	Title	Effective Date	Submittal Date
OAC 252: 100 – 8 – 38	PSD, Actuals PAL	June 1, 2009	June 24, 2010
		June 15, 2006	July 16, 2010
OAC 252: 100 – 8 – 39	PSD Severability	June 15, 2006	July 16, 2010
OAC 252: 100 – 8 – 50	Majors Affecting Nonattainment Areas (NNSR), Applicability	June 1, 2009	June 24, 2010
		June 15, 2006	July 16, 2010
OAC 252: 100 – 8 – 50.1	NNSR, Incorporation by Reference	June 1, 2009	June 24, 2010
		June 15, 2006	July 16, 2010
		July 1, 2011	February 6, 2012
OAC 252: 100 – 8 – 51	NNSR, Definitions	June 1, 2009	June 24, 2010
		June 15, 2006	July 16, 2010
		July 1, 2011	February 6, 2012
OAC 252: 100 – 8 – 51.1	NNSR Emission reductions and offsets	June 15, 2006	July 16, 2010
		July 1, 2011	February 6, 2012
		July 1, 2012	January 18, 2013
OAC 252: 100 – 8 – 52	NNSR, Applicability determination for sources in attainment areas causing or contributing to NAAQS violations	June 1, 2009	June 24, 2010
		June 15, 2006	July 16, 2010
		July 1, 2011	February 6, 2012
OAC 252: 100 – 8 – 53	NNSR, Exemptions	June 1, 2009	June 24, 2010
		June 15, 2006	July 16, 2010
OAC 252: 100 – 8 – 54	NNSR Requirements for sources located in nonattainment areas	June 15, 2006	July 16, 2010
OAC 252: 100 – 8 – 54.1	NNSR, Ozone and PM ₁₀ precursors	June 1, 2009	June 24, 2010
OAC 252: 100 – 8 – 55	NNSR, Source Obligation	June 1, 2009	June 24, 2010
		June 15, 2006	July 16, 2010
OAC 252: 100 – 8 – 56	NNSR, Actuals PAL	June 1, 2009	June 24, 2010
		June 15, 2006	July 16, 2010
OAC 252: 100 – 8 – 57	NNSR Severability	June 15, 2006	July 16, 2010

As a result of this final approval of the revisions to the Oklahoma SIP addressing the GHG Step 1 permitting requirements, we are removing the provisions at 40 CFR 52.1929(c), under which the EPA narrowed the applicability of the Oklahoma PSD program to regulate sources consistent with federal requirements because these provisions at 40 CFR 52.1929(c) are no longer necessary.

The EPA finds that the February 6, 2012, revisions to the Oklahoma NNSR program address all required NNSR elements for the implementation of the 1997 and 2006 PM_{2.5} NAAQS. We note that the Oklahoma NNSR program does not include regulation of VOCs and

ammonia as PM_{2.5} precursors. However, as section 189(e) of the Act requires regulation of PM_{2.5} precursors that significantly contribute to PM_{2.5} levels “which exceed the standard in the area” and Oklahoma does not have a designated PM_{2.5} nonattainment area, the revisions addressing only SO₂ and NO_x are not inconsistent with the requirements of the CAA. In the event that an area is designated nonattainment for the 2012 PM_{2.5} NAAQS, or any other future PM_{2.5} NAAQS, Oklahoma will have a deadline under section 189(a)(2) of the CAA to make a submission addressing the statutory requirements as to that area, including the requirements in section 189(e) that apply to the regulation of PM_{2.5} precursors.

The EPA is also finalizing a ministerial correction to 40 CFR 52.1920(c) to remove a duplicate entry for the SIP approval of OAC 252:100-5-1. We are removing the first listing of this section; we retain the identical entry in numerical order under OAC, Title 252, Subchapter 5 – Registration, Emissions Inventory, and Annual Operating Fees.

III. Incorporation by Reference

In this rule, we are finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, we are finalizing the incorporation by reference of the revisions to the Oklahoma regulations as described in the Final Action section above. We have made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and/or in hard copy at the EPA Region 6 office.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely

approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule

or action. This action may not be challenged later in proceedings to enforce its requirements.

(See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 21, 2016.

Ron Curry,
Regional Administrator, Region 6.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart LL – Oklahoma

2. In §52.1920(c), the table titled “EPA Approved Oklahoma Regulations” is amended by:
 - a. Revising the entries for 252:100-1-1, 252:100-1-2, 252:100-1-3, 252:100-3-4, 252:100-5-1.1, 252:100-5-2.1, 252:100-8-1.1, 252:100-8-30, 252:100-8-31, 252:100-8-33, 252:100-8-34, 252:100-8-35, 252:100-8-36, 252:100-8-37, 252:100-8-50, 252:100-8-51, 252:100-8-52, 252:100-8-53, and 252:100-8-54;
 - b. Adding a centered heading titled “Subchapter 2: Incorporation by Reference” and entries for 252:100-2-1 and 252:100-2-3 in numerical order;
 - c. Adding entries in numerical order for 252:100-1-4, 252:100-8-32.1, 252:100-8-32.2, 252:100-8-32.3, 252:100-8-35.1, 252:100-8-35.2, 252:100-8-36.2, 252:100-8-38, 252:100-8-39, 252:100-8-50.1, 252:100-8-51.1, 252:100-8-54.1, 252:100-8-55, 252:100-8-56, 252:100-8-57, 252:100 Appendix P, and 252:100 Appendix Q; and
 - d. Removing the first centered heading titled “Subchapter 5. Registration, Emissions Inventory and Annual Operating Fees”, the first entry for 252:100-5-1, and the entry for 252:100-8-32.

The additions and revisions read as follows:

§52.1920 Identification of plan.

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(c) * * *

EPA APPROVED OKLAHOMA REGULATIONS

State Citation	Title/Subject	State effective date	EPA approval date	Explanation
* * * * *				
CHAPTER 100 (OAC 252:100). AIR POLLUTION CONTROL				
Subchapter 1. General Provisions				
252:100-1-1	Purpose	6/12/2003	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
252:100-1-2	Statutory definitions	6/12/2003	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
252:100-1-3	Definitions	7/1/2012	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	SIP does not include revisions to the definition of “carbon dioxide equivalent emissions” for the GHG Biomass Deferral, effective on 7/1/2012 and submitted on 1/13/2013.
252:100-1-4	Units, abbreviations and acronyms	7/1/2011	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
Subchapter 2: Incorporation by Reference				
252:100-2-1	Purpose	7/1/2012	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
252:100-2-3	Incorporation by reference	7/1/2012	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
Subchapter 3: Air Quality Standards and Increments				
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252:100-3-4	Significant deterioration increments	7/1/2011	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	

Subchapter 5: Registration, Emissions Inventory and Annual Operating Fees				
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252:100-5-1.1	Definitions	6/15/2007	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
* * * * *				
252:100-5-2.1	Emission inventory	6/15/2007	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
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Subchapter 8: Permits for Part 70 Sources				
Part 1. General Provisions				
* * * * *				
252:100-8-1.1	Definitions	6/15/2006	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
* * * * *				
Part 7. Prevention of Significant Deterioration (PSD) Requirements for Attainment Areas				
252:100-8-30	Applicability	6/1/2009	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	

252:100-8-31	Definitions	7/1/2012	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	SIP does not include paragraph (E) of the definition of “subject to regulation”, effective on 7/1/2011 and submitted 2/6/2012 for Step 2 GHG permitting. SIP does not include revisions to the definition of “subject to regulation” paragraph (B)(i) for the GHG Biomass Deferral, effective on 7/1/2012 and submitted on 1/13/2013.
252:100-8-32.1	Ambient air increments and ceilings	6/15/2006	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
252:100-8-32.2	Exclusion from increment consumption	6/15/2006	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
252:100-8-32.3	Stack heights	6/15/2006	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
252:100-8-33	Exemptions	7/1/2012	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	SIP does not include OAC 252:100-8-33(c)(1)(C) effective on 7/1/2011 and submitted 2/6/2012.
252:100-8-34	Control technology review	6/15/2006	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	

252:100-8-35	Air quality impact evaluation	7/1/2011	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	SIP does not include OAC 252:100-8-35(a)(2) effective on 7/1/2011 and submitted 2/6/2012.
252:100-8-35.1	Source information	6/15/2006	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
252:100-8-35.2	Additional impact analyses	6/15/2006	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
252:100-8-36	Source impacting Class I areas	6/15/2006	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
252:100-8-36.2	Source obligation	6/15/2006	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
252:100-8-37	Innovative control technology	6/1/2009	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
252:100-8-38	Actuals PALs	6/1/2009	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
252:100-8-39	Severability	6/15/2006	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
Part 9. Major Sources Affecting Nonattainment Areas				
252:100-8-50	Applicability	6/1/2009	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
252:100-8-50.1	Incorporation by reference	7/1/2011	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	

252:100-8-51	Definitions	7/1/2011	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
252:100-8-51.1	Emission reductions and offsets	7/1/2012	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
252:100-8-52	Applicability determination for sources in attainment areas causing or contributing to NAAQS violations	7/1/2011	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
252:100-8-53	Exemptions	6/1/2009	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
252:100-8-54	Requirements for sources located in nonattainment areas	6/15/2006	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
252:100-8-54.1	Ozone and PM10 precursors	6/1/2009	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
252:100-8-55	Source obligation	6/1/2009	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
252:100-8-56	Actuals PALs	6/1/2009	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
252:100-8-57	Severability	6/15/2006	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
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Appendices for OAC 252: Chapter 100				
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252:100, Appendix P	Regulated Air Pollutants	6/15/2007	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
252:100, Appendix Q	Incorporation by Reference	7/1/2012	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
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§52.1929 [Amended]

3. Section 52.1929 is amended by removing paragraph (c).

[FR Doc. 2016-23189 Filed: 9/27/2016 8:45 am; Publication Date: 9/28/2016]